

February 9, 2011

Ex Parte

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

**Re: In the Matter of Reexamination of Roaming Obligations of Commercial
Mobile Radio Service Providers Automatic and Manual Roaming Obligations
Pertaining to Commercial Mobile Radio Services, WT Docket 05-265**

**Petition for Rulemaking Regarding the Need for 700 MHz Mobile Equipment to be
Capable of Operating on All Paired Commercial 700 MHz Frequency Blocks, RM-
11592**

Dear Ms. Dortch:

Cellular South, Inc. (“Cellular South”) submits this *ex parte* in order to further underscore the need for a data roaming obligation to foster deployment of current and next generation wireless networks throughout the nation. Many of the points articulated herein are also addressed in *ex parte* filings Cellular South previously made or joined. Specifically, I would note the Rural Cellular Association *ex parte* in WT Docket 05-265, filed November 11, 2010 and the joint Cellular South and Allied Wireless Communication *ex parte* in WT Docket 05-265, filed December 3, 2010. Additionally, some of these same points are included in various filings made by Cellular South and the other members of the Good Faith Purchasers Alliance in RM-11592.

Cellular South is in a somewhat unique technological position. We currently operate both a CDMA and GSM network, and are attempting to deploy an LTE network within our 700 MHz license areas. While Cellular South has historically been a CDMA carrier, we also have a GSM network covering most of rural Northeastern Alabama that was acquired with the purchase of Corr Wireless in 2010. In addition, Cellular South has been attempting to deploy an LTE network across the nearly \$200 million of 700 MHz licenses it acquired in Auction 73. But, the uncertainty about whether we can secure LTE data roaming agreements has inhibited the speed of the Company’s 4G network deployment.

Cellular South has offered 3G service on our CDMA network for approximately three years. Although the Company had difficulties early on in simply entering negotiations for 3G roaming at CDMA, eventually we were able to complete roaming agreements with the two national CDMA carriers. We have had no significant problems entering 3G roaming agreements with smaller CDMA carriers.

No Ability to Offer 3G Roaming to our GSM customers

Within its GSM footprint, Cellular South currently offers 2.5G service and has 2.5G roaming agreements with the two national GSM carriers. A 3G GSM network has not been deployed within our GSM footprint for one basic reason: we have no ability to offer 3G roaming to our GSM customers.

We have had no success in obtaining a 3G roaming agreement for our GSM customers. In fact, one nation-wide GSM carrier has offered us terms for 3G roaming in recent weeks. The offer, however, clearly was not made in good faith as it would have increased our existing voice roaming rates with this carrier and would have raised our existing data rates by many multiples. Further, the agreement provided that our customers would have no guarantee of access to 3G data, even if the carrier's network was available.

No Ability to Offer 4G Roaming to our Customers

As we continue to press forward with efforts to deploy a 4G LTE network, interoperability becomes fundamental to our customers' ability to roam on other carriers' LTE networks. Currently, each device that we sell for use on either our CDMA or GSM network is built to operate across the Cellular spectrum, PCS spectrum and, increasingly, AWS spectrum.

Until recently, all devices built to operate in any specific part of a spectrum band were technologically capable of operating across all paired spectrum within the given band. The only difference between devices was the air interface technology (i.e. CDMA or GSM). In other words, all devices were developed to be interoperable across the entirety of a given block of spectrum (e.g., all Cellular devices are interoperable across the Cellular spectrum, all PCS devices are interoperable across the PCS spectrum, and all AWS devices are interoperable across the AWS spectrum). This is not true for the 4G LTE networks being deployed on the 700 MHz spectrum even though they use a common air interface technology.

When AT&T and Verizon Are the "Market", the Market Has Failed

The 700 MHz spectrum has been fragmented into distinct Band Classes and the two largest holders of 700 MHz spectrum - AT&T and Verizon - have deployed essentially proprietary LTE networks and devices that work only on their spectrum. Given the enormity of the economic scale of AT&T and Verizon, these two carriers are the de facto "market" for LTE devices and equipment that operate at 700 MHz. Outside of this "market," it is not economically feasible for any other carrier to obtain LTE equipment or devices to operate in non-AT&T or non-Verizon 700 MHz bands.

Even if it were economically feasible for carriers to obtain LTE equipment and devices in non-AT&T and non-Verizon 700 MHz bands, roaming from one carrier's network to another will not be possible without interoperable devices. The "market" is not developing these devices, and Cellular South cannot justify the added expense of developing them on our own without the assurance that our customers will have LTE roaming at just and reasonable rates. Given the failure of the market to foster interoperable LTE deployment, only an interoperability requirement – like that imposed in 1981 by the Reagan FCC – can solve this problem.

Competitive Carriers Cannot Build a Business on Obsolete Technology

Until this market failure regarding data roaming is addressed, competitive carriers are left to struggle to build their business on obsolete (2G and 2.5G) or soon-to-be obsolete (3G) technology. For example, Cellular South currently has fixed-term, nationwide CDMA roaming at 3G (and below) with two national carriers.¹ We have no GSM roaming at 3G and only 2.5G (and below) roaming agreements with two national GSM carriers.²

¹ Cellular South also has 17 roaming agreements with rural and regional providers at 3G as well as numerous 2G roaming agreements with rural and regional providers.

² We also have roaming agreements with several rural and regional providers at 2.5G (and below) as well as numerous 2G roaming agreements with rural and regional providers.

We have been unable to negotiate (and, therefore, unable to obtain) a 3G roaming agreement for GSM. As referenced above, one nation-wide GSM carrier has offered us terms for 3G roaming in recent weeks. However, the offer clearly was not made in good faith.

Additionally, Cellular South has asked national carriers for assurances that we will be able to negotiate for 4G roaming at the appropriate time, but even our requests for an assurance to negotiate at some point in the future have been refused. As mentioned above, this is one reason that we have delayed our 4G deployment.

Data Roaming Certainty Facilitates Faster Network Deployment and Job Growth

A data roaming obligation similar to the current voice roaming obligation (and the assurance of interoperable 700 MHz devices within the very short term) would provide Cellular South with certainty on the fundamental issue preventing rapid deployment of substantial capital for the construction of new 4G facilities within its current operating areas and its larger 700 MHz license footprint. While Cellular South has made an announcement regarding a very limited LTE deployment to remain competitive within its current market in the near-term, the deployment is just that: very limited.

The capital needed for an extensive deployment of LTE across the company's 700 MHz license area was secured prior to Auction 73. This capital, which could be creating jobs through the construction and operation of new cell sites, towers, and retail locations, has remained sidelined as a result of the lingering uncertainty surrounding data roaming and interoperability. Should the FCC end this uncertainty, the Commission can be assured that announcements of job-creating network upgrades and expansions would follow.

For all these reasons, Cellular South again urges the Commission to adopt a data roaming mandate.

Sincerely,

s/ Eric B. Graham

Eric Graham
Vice President, Strategic and Government Relations

cc: Ruth Milkman, Chief, Wireless Telecommunications Bureau (*via e-mail*)
James Schlichting, Senior Deputy Chief, Wireless Telecommunications Bureau (*via e-mail*)